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BEFORE THE MIXED COMMISSION
ON
BRITISH AND AMERICAN CLAIMS.

JOHN PURVIS, heirs of—
vs.
UNITED STATES. } No. 138.

Horatio King

CLAIMANT'S REPLY TO THE BRIEF OF THE AGENT
AND COUNSEL OF THE UNITED STATES.

Trusting that the evidence of title of the memorialists is satisfactory, and that, if not so, there will be allowed time to add to the proof on that point, I proceed to consider the merits of the case, in reply to the brief filed by the United States.

The claimants in this case applied to the United States for relief, as soon as practicable, after the close of the war. According to the report of General Dunn, (p. 46 of memorial,) the claim was originally submitted by Sir Frederick Bruce, on December 1st, 1865, and transmitted to the War Department on the 30th of January following. Four days thereafter, to wit: on the 3d of February, all the papers, including Mr. Bruce's declaration and list of valuation, with accompanying testimony, was referred by the Secretary of War to Major General Wood, commanding department of the Mississippi, for investigation and report.

Under this order General Wood directed Major A. E. Barnes to make the investigation, the result of which is clearly stated in his (Major B.'s) report, (page 46.) The honorable counsel for the United States takes exception to this report, and says it "was never approved by the War Department or any officer authorized to pass upon it, but was disapproved and rejected by the Judge Advocate Gen-

eral," &c. I respectfully submit that there is no evidence that it was ever disapproved or rejected, but on the contrary, that it appears to have been received as satisfactory, both to General Wood and the Secretary of War, since no further investigation of the matter was ordered. I am at a loss to conceive what there is in said report to justify the terms by which the honorable counsel for the United States has seen fit to characterize it. Major Barnes was required to attend to a plain, specific duty, which he appears to have faithfully performed. The Judge Advocate General, as Mr. Hale himself admits, did not undertake to pass upon the merits of Major Barnes' report, but confined his decision exclusively to the question of jurisdiction, which he said rested alone in Congress.

Mr. Hale also takes exception to the affidavits accompanying said report, and speaks of the proofs filed by the claimants as "exceedingly loose and irregular," whereas if the witnesses are to be credited, and I am not aware that their credibility has been questioned, their testimony, one would suppose, should, under the circumstances, be regarded as very satisfactory. It is true, there may be a few items in the "list of valuation," certified to by them as correct, which might not come properly under the head of quartermaster stores; but they do not say that all the articles named in that list were appropriated to the use of the United States army. Some things were destroyed. The item of 850 acres of corn, among others, is instanced by Mr. Hale as in this category; but if reference is made to the affidavit of Ulysses Ross, at page 35, it will be observed that he says he saw the Federal forces "gathering green corn from the field and hauling it away," thus showing that this large field of corn, instead of being "trampled down by the movements of the armies," was probably used as food for the army horses and mules, if not for the soldiers, of the United States army. Mr. Bruce states (page 30) that the forces of General Grant's "army came upon the place at different times and

took and carried away, *for the use of the army*, * * all the corn, bacon, potatoes, peas, *fodder*, and supplies of all kinds," &c. Instead of being the "ordinary ravages of war," these seizures, so far as stores and supplies are concerned, are the subject of claims against the United States of the same character precisely as are daily being adjusted and settled in the Quartermaster's Department and before the Southern Claims Commission.

Touching the reference of Mr. Hale to the statement in the memorial, that after the 15th of May, 1863, "no part of Warren county was under the control of the Confederate troops," I beg to remark that this is an evident mistake, which should not be allowed to prejudice the case; because, notwithstanding the incorrectness of the statement, I respectfully submit that it is comparatively immaterial what troops were in possession, since it is proved that the property for which claim is made was taken by and used toward the support of the United States army. What the memorialists doubtless meant to say was, that the county of Warren—that is, the "*country*," in contradistinction to that part of the county in which the *city* of Vicksburg is situated—"had been recovered by the troops of the United States," and that the Confederate troops no longer had had control there, which, I think, is true.

DECEMBER 11, 1872.

HORATIO KING,
Attorney for Claimants.

Respectfully submitted.

J. M. CARLISLE,
H. B. M.'s Counsel.

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